

EX PARTE OR LATE FILED

43391 Chokeberry Square
Ashburn, VA 20147
January 22, 1997Secretary, Federal Communications Commission
1919 M St N.W.
Washington, D.C. 20554

Mr. Secretary,

In December 1996 I installed a Primestar Satellite Dish in the backyard of my residence at Ashburn Farm, Virginia. On December 16, 1996 I was notified by the Ashburn Farm Association that this is considered a modification/change that requires the submission of an "Exterior Alteration Application" and the review and approval of the Architectural Review Board (Ashburn Farm Association Letter provided at Attachment 1). Although such a permit is not required in accordance with your recent rulings in this regard, I not only submitted the application provided at Attachment 2 but discussed the matter with my neighbors most effected by this installation. I also pointed out that the dish would be hidden from view by the installation of a fence requested under a similar Exterior Alteration Application (Attachment 3). None of the neighbors in question objected to the installation of my satellite dish and construction of my deck and fence began on 7 January 1997 and was completed on 22 January 1997.

On 16 January the Architectural Review Board denied approval of my satellite dish citing that the dish was larger than the 18" standard permitted by the association bylaws. I have the right to appeal this decision to the Ashburn Farm Association Board of Trustees but may face a decision enforced by their legal counsel requiring me to remove the dish at my expense.

I believe the Homeowner's Association bylaw, based upon aesthetic appearance, is contrary to your recent ruling in this matter as my dish described in Attachment 4 meets the size permitted by your ruling, does not create a safety hazard nor does it impact a historic area listed or eligible for listing on the National Register of Historic Places. In addition, I have taken reasonable action to significantly reduce its visibility. I also believe that this denial will set a precedent to bar an excellent provider of DBS services like Primestar from the Ashburn Farm area and restrict competition.

I have provided a copy of this letter to the Ashburn Farm Association and am requesting a declaratory ruling on this petition as to whether this restriction is permissible or prohibited under your recent ruling. I can be reached for any questions in this matter at 703-834-5000, Ext 2286 (Work) or 703-724-7678 (Home). Representatives of the Ashburn Farm Association may be contacted at 703-729-6680. Thank you.

Very truly yours,



Frank D. Allen

Attachments

1. Ashburn Farm Association Ltr dated December 16, 1996
2. Exterior Alteration Application for Satellite Dish
3. Exterior Alteration Application for Deck and Fence
4. Primestar Model 6537 .70m x 1.0m Elliptical SMC Antenna

cc: Architectural Review Board
Ashburn Farm Association

Satellite Broadcasting and Communications Association



RECEIVED
JAN 27 1997
FARMER HCS

December 16 , 1996

Mr. and Mrs. Frank Allen
43391 Chokeberry Square
Ashburn, Virginia 20147

Dear Mr. and Mrs. Allen:

In an effort to conserve and enhance the aesthetic value of Ashburn Farm as a community, the Architectural Review Board (ARB) was established to review homeowner requests for an exterior modification/change.

It has come to the attention of the ARB that you have installed a "Primestar" satellite dish in your backyard. This is considered a modification/change that requires the submission of an "Exterior Alteration Application" and the review and approval of the ARB.

Please complete the enclosed "Exterior Alteration Application" and return it to the office within fifteen (15) working days. You may refer to your Architectural Guidelines Book for complete application requirements.

Should you have any questions and/or comments, please do not hesitate to contact the Association Office at 729-6680.

Thank you for your cooperation.

Sincerely,

Nancy Pastoor
Community Manager

NP/jeb

Enclosure

Attach 1

Exterior Alteration Application

Architectural Review Board Ashburn Farm Association

P.O. Box 201 / Ashburn, Virginia 20146 / (703) 729-6686

INSTRUCTIONS

1. Please carefully review the Architectural Guidelines booklet prior to completion of this form. Application guidelines for your change are listed in Section V.
2. Describe in full detail your exterior change or modification and/or attach exhibits (sketches, pictures, drawings, clippings and catalog illustrations are acceptable).
3. Specify start and completion dates.
4. Include the signatures of four (4) property owners who are most affected by your request because they are adjacent to or have a view of the project.
5. Show the location of project on your property with a copy of your site plan (given to you by your builder at purchase of home).

Name of Applicant: Frank D. & Gabrielle Allen

Address of Proposed Change: 43391 Chokeberry Square

Home Phone: 724-7678 Work Phone: 834-5860, Ext 2286 Lot #: 128A

Description of Change: Installation of PrimeStar Satellite Dish
in Backyard. Dish will be restricted from viewing
by addition of Fence in January 1997.

SIGNATURES: Your signature indicates an awareness of the Applicant's intent and does not constitute nor indicate approval or disapproval.

Name: John Allen

Address: 43393 Chokeberry

Lot #: _____

Name: Shirley Wright

Address: 20702 Southwind Ter.

Lot #: 20

Name: Cindy & Scott Martin

Address: 43395 Chokeberry Sq

Lot #: _____

Name: Loraine Kitchin

Address: 43389 Chokeberry Sq

Lot #: _____

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NOTES

1. Nothing herein contained shall violate any of the provisions or Building and Zoning Codes of Loudoun County, to which the above property is subject. Further, nothing herein contained shall be construed as a waiver or modification of any said restriction.
2. I understand that the Building Ordinance of the Loudoun County Building Department requires that I file plans with the Building Inspector in Leesburg, Virginia for construction requiring a Building Permit.
3. I understand that any construction or exterior alteration undertaken by me, or in my behalf, *before* approval of this application is not allowed. If alterations are made, I may be required to return the property to its former condition at my own expense if this application is disapproved wholly or in part, and that I may be required to pay all legal expenses incurred.
4. I understand that members of the Architectural Review Board (ARB) are permitted to enter upon my property at any reasonable time for the purpose of inspecting the proposed project, the project in progress, and the completed project, and that such entry does not constitute a trespass.
5. I understand that any approval is contingent upon construction or alterations being completed in a workmanlike manner.
6. I understand that the application review process usually takes no longer than 15 working days if a "conforming" application is submitted and that an ARB decision is required on all complete applications within 45 working days of the receipt of said application by the ARB.
7. It is understood that I am aware of Ashburn Farm's Declaration of Covenants and Restrictions in regard to the review process established by the Board of Directors.
8. I understand that the alteration authority granted by the ARB will be automatically revoked if the change and/or modification requested has not commenced within 180 days of the approval date and/or completed by the date established by the ARB.

Applicant's Signature:

David O. Allen
Darville Allen

Date:

17 Dec 96

Committee Recommendation:

ARB Remarks:

ARB Action:

Date:

Project Completion Date:

If you disagree with the decision of the ARB, an Appeal may be made. For procedures, please refer to Section IV of the Architectural Guidelines.

Exterior Alteration Application

Architectural Review Board Ashburn Farm Association

P.O. Box 201 / Ashburn, Virginia 20146 / (703) 729-6680

INSTRUCTIONS

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3. Specify start and completion dates.
4. Include the signatures of four (4) property owners who are most affected by your request because they are adjacent to or have a view of the project.
5. Show the location of project on your property with a copy of your site plan (given to you by your builder at purchase of home).

Name of Applicant: FRANK D. ALLEN

Address of Proposed Change: 43391 Chokeberry Square

Home Phone: 724-7678 Work Phone: 834-5000, x2266 Lot #: 125A

Description of Change: Addition of deck and fence to adjoin and match existing neighbors' fencing. Fencing will also eliminate visibility of satellite dish being requested under a separate exterior alteration application.

SIGNATURES: Your signature indicates an awareness of the Applicant's intent and does not constitute nor indicate approval or disapproval.

Name: Loraine Kitchin

Address: 43389 Chokeberry

Lot #: _____

Name: Shirley Wright

Address: 20702 Sunrise Ter.

Lot #: 20

Name: Helen Albert

Address: 43393 Chokeberry

Lot #: _____

Name: Cindy Martin

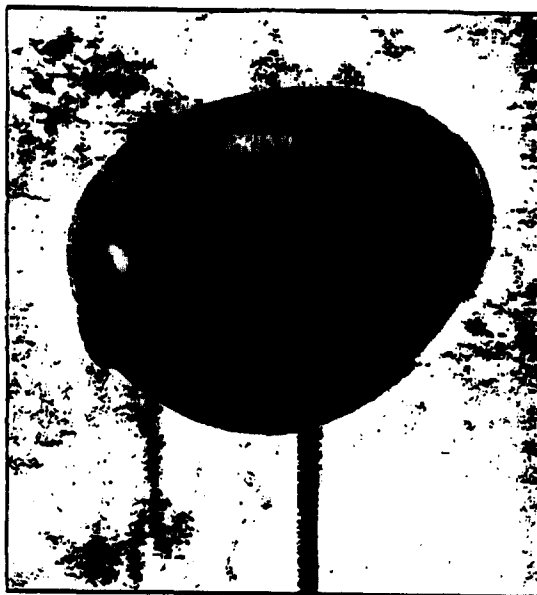
Address: 43395 Chokeberry Sq

Lot #: _____

Atch 3

Instruction and Assembly Manual

PRIMESTAR®

Manufactured
by**Channel Master®****POLE MOUNT SYSTEM**

**.70m x 1.0m Elliptical Offset SMC Antenna
with Feed Support & Factory Assembled AZ/EL Cap**

INCLUDES: MODEL 6537 .70m x 1.0m Elliptical SMC Antenna
MODEL 6532 AZ/EL Cap
MODEL 6542 DPLNB Feed/Support Assembly
MODEL 6543 DPLNB Feed/Support Assembly
MODEL 6529PG Ground Pole 2 3/8" O.D.

Channel Master division of Avnet, Inc.
1315 Industrial Park Drive, P.O. Box 1416, Smithfield, N.C. U.S.A.
(919) 934-6711 ■ (919) 934-2203

Atch 4

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